



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R4-ES-2023-0029; FXES11140400000-212-FF04EF4000]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Caracara, Brevard County, FL; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from Forestar (USA) Real Estate Group (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally threatened Audubon's crested caracara (*Polyborus plancus audubonii*), a raptor, incidental to the construction of a proposed residential development in Brevard County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and on the Service's preliminary determination that the proposed permitting action may be eligible for a categorical exclusion pursuant to the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations, the Department of the Interior's (DOI) NEPA regulations, and the DOI Departmental Manual. To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review. We invite comment from the public and local, State, Tribal, and Federal agencies.

DATES: We must receive your written comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *Obtaining Documents:* You may obtain copies of the documents online

in Docket No. FWS-R4-ES-2023-0029 at <https://www.regulations.gov>.

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- Online: <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R4-ES-2023-0029.
- U.S. mail: Public Comments Processing, Attn: Docket No. FWS-R4-ES-2023-0029; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Erin M. Gawera, by U.S. mail (see **ADDRESSES**), via phone at 904-731-312, or by email at erin_gawera@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service (Service), announce receipt of an application from Forestar (USA) Real Estate Group (Cypress Bay West @ Waterstone Phase III) (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take the federally threatened Audobon’s crested caracara (*Polyborus plancus audubonii*) (caracara) incidental to the construction of a residential development (project) in Brevard County, Florida. We request public comment on the application, which includes the applicant’s habitat conservation plan (HCP), and on the Service’s preliminary determination that this proposed ITP qualifies as “low effect,” and may qualify for a categorical exclusion pursuant to the Council on Environmental Quality’s National Environmental Policy Act (NEPA) regulations (40 CFR 1501.4), the

Department of the Interior (DOI) NEPA regulations (43 CFR 46), and the DOI Departmental Manual (516 DM 8.5(C)(2)). To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review.

Proposed Project

The applicant requests a 10-year ITP to take caracaras through the conversion of approximately 27.6 acres (ac) of occupied caracara primary buffer zone habitat incidental to the construction of a residential development on a 190.28-ac parcel in Sections 4 and 5, Township 30 South, Range 37 East, Brevard County, Florida, identified by Tax Account Numbers 3000217 and 3000219. The applicant proposes to mitigate for take of the caracaras by donating \$80,000.00 to the Allen Broussard Conservancy (ABC) Land Acquisition Fund; these funds will be used to purchase and permanently conserve approximately 27.6 ac to support known territories of two breeding/nesting pairs of caracaras within the limits of the ABC. The applicant will also make a \$20,000.00 monetary donation to the ABC to aid in financing habitat management and enhancement activities that will occur on the same 27.6-ac area, for a period of 10 years. The Service would require the applicant to purchase the credits prior to engaging in construction activities associated with the project on the parcel.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's project—

including land clearing, infrastructure building, landscaping, and other ground disturbance and site preparation activities—and the proposed mitigation measures would individually and cumulatively have a minor effect on the human environment. We have preliminarily determined that the proposed ESA section 10(a)(1)(B) permit would be a “low-effect” ITP that individually or cumulatively would have a minor effect on the caracara and may qualify for application of a categorical exclusion pursuant to the Council on Environmental Quality’s NEPA regulations (40 CFR 1501.4), DOI’s NEPA regulations, and the DOI Departmental Manual (516 DM 8.5(C)(2)). A “low-effect” incidental take permit is one that would result in (1) minor or negligible effects on species covered in the HCP; (2) nonsignificant effects on the human environment; and (3) impacts that, when added together with the impacts of other past, present, and reasonably foreseeable actions, would not result in significant cumulative effects to the human environment.

Next Steps

The Service will evaluate the application and the comments to determine whether to issue the requested ITP. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER0046193 to Forestar (USA) Real Estate Group.

Authority

The Service provides this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500-1508 and 43 CFR 46).

Robert L. Carey,

Division Manager, Environmental Review,

Florida Ecological Services Office.

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